

United States District Court  
Northern District of New York

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Julio Nava

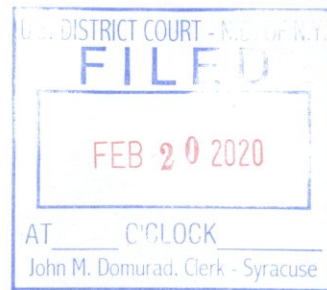
Plaintiff

- VS -

Randal Smith, et al.,

Defendants

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Objection to Decision  
& Order of Hon. Therese  
Wiley Dancik Pursuant  
to Fed. R. Civ. P. 72(a)  
Case No. 19-cv-0072

Sirs:

PLEASE TAKE NOTICE, that the annexed affirmation of Julio Nava, do hereby make his objections to Decision & Order of Hon. Therese Wiley Dancik in regards to Fed. R. Civ. P. 72(a)

This Court Decision & Order dated: January 30th, 2020, is an abuse of discretion which determination was made in violation of law procedure

The Judge Decision & Order is an abuse of discretion which determination was made in violation of law procedure for four (4) reasons (1) the Plaintiff's Julio Nava Supervisory Liability claim was not addressed (2) the Plaintiff's Julio Nava Racial Discrimination under 42 U.S.C 1981 was implemented in the judge's Decision & Order (3) the Plaintiff's Julio Nava the Plaintiff's Julio Nava Motion Leave to Amend was erroneously accepted by the court as the proposed amended complaint (4) and final, the plaintiff's Julio Nava Spoliation of Evidence claim was adequately pled. Hon. Therese Wiley Dancik is extremely bias. I object !!!

Dated: County of Wyoming  
February 13th 2020

Julio Nava #02-A-2845  
Attica Correctional Facility  
639 Exchange Street  
Attica, NY 14011



United States District Court  
Northern District of New York

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Julio Nova

Plaintiff

- vs -

Randal Smith, et al.,

Defendants

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State of New York)  
County of Wyoming)

Affirmation in Support  
of Plaintiff's Objection  
to Court Decision &  
Order

Case No. 19-cv-0072

Julio Nova, being duly sworn under penalty of perjury says:

I am the plaintiff in the above-entitled action and I am over 18 years of age.

I am familiar with all of the facts and circumstances herefore, wherefore, although I am presently familiar with all the facts and statements herein stated to the best of my knowledge, information and belief, I am a lay person in matters of law and seek to object pursuant to Fed. R. Civ. P. 72(a)

The basis of plaintiff's objection are: Report-Recommendation dated January 30th, 2020, fails to (1) address plaintiff's Supervisory Liability claim (2) address plaintiff's Racial Discrimination claim (3) the court erroneously accepted plaintiff's Motion Leave to Amend as the proposed amended complaint (4) and last, plaintiff's spoliation of evidence should have been considered properly pled.



It is significant to note, that the Northern District of New York is under a culture in which all correction employees are shielded from liability. For high and lower-rankin officers, bad behavior is ignored or cover up, by judges, on a regular basis, and certain officials who should be found liable can avoid liability with the help of judges. Discrimination have shadowed this District for years if not decades. This litigation alone can cite numerous of bad behavior coverup, by Hon. Therese Wiley Daniels, confronting the sprawling Court as it detailed ongoing problems while pursuing this litigation. Majority of correction officers deemed liable under federal law were shuggled around, commended, awarded, promoted or even allowed to retire with a clean record and full benefits before any liability could apply. This case shows how the entire process was intentionally delayed to allow testimony and evidence to discard. Such arbitrary, whimsical, capricious, and spiteful red herring tactics used by Hon. Therese Wiley Daniels to circumvent providing plaintiffs with a timely written deposition, is a good example of a waste of judicial resources. The judge's conduct is a breach of duty and not the exercise of a Federal judge function. The record shows that the injuries and damages caused to plaintiffs resulted from wrongdoing and recklessness on the part of all defendants, yet the Court continues to turn they backs to this plaintiffs Constitutional rights.



## I. Plaintiff's First Objection

The basis for this objection is:

This Court Decision & order dated: January 30th 2020, was made in violation of lawful procedure, and clear erroneous.

This Court failure to address plaintiff's claim as to Supervisory Liability Claim is a plain error. The defendant Woodruff's misconduct was so egregious that it was "repugnant to a sense of justice", and the treatment that was meted-out to plaintiff's Julio Nova is cruel and unusual punishment, to have been beat twice on the same date by defendant Willett deliberately, to strike terror in plaintiff's Julio Nova heart, and destroy evidence in order to conceal the truth is outrageous. This type of enforcement, had been totally surrendered to private parties whom were manipulating the law for pure private purposes. This abuse of legal system may be viewed as a set of interorganizational exchange, relationships analogous to a... Community game. The participants in the legal system (Game) share a common territorial field and collaborate for different and particular ends. They interact on a continuing basis as their responsibilities demand contact with other participants in the process, thus the need for the cooperation of other participants can have a bearing on the



decision to dismiss this cause of action/complaint

## II. Plaintiff's Second Objection

The basis for this objection is:

This Court Decision & Order dated: January 30th, 2020, was made in violation of lawful procedure and clear erroneous.

The plaintiff having established a cause of action previously under 42 U.S.C. § 1981 (racial discrimination) now seeks further indulgence as to reason for such claim not implemented in this Court Decision & Order. This Court should examine such clear erroneous exclusion of this cause of action.

## III. Plaintiff's Third Objection

The basis for this objection is:

This Court Decision & Order dated: January 30th, 2020, was made in violation of lawful procedure and clear erroneous.

This Court erroneously considered plaintiff's motion Leave to Amend as the proposed amended complaint. Although plaintiff did titled his motion "Leave to Amend" the Court should have known that in a letter addressed to the Court, where plaintiff made a clear typographical error when called motion leave to amend as the proposed amended complaint, plaintiff had to have made a typographical error, because, the motion



leave to amend named but two defendants in the motion caption, not to mention that it didn't illustrate a relief sought nor claim for relief

#### IV. Plaintiff's Fourth Objection

The basis for this objection is:

This court decision & Order dated: January 30th 2020, is an abuse of discretion which determination was made in violation of lawful procedure, was affected by an error of law and is arbitrary and capricious.

Although plaintiff's pleading under spoliation of evidence clearly pleads ultimate facts, the court denied plaintiff the opportunity to establish a cause of action under spoliation of evidence. Not only did plaintiff plead the facts showing a legal right, but also a wrong as required by code of pleading. The pleadings in plaintiff's motion for leave to amend clearly shows that he has utilized the standard of a short and plain statement of his spoliation of evidence claim clearly showing entitlement to some relief, yet this court failed to recognize the liberal construed pleading rule.

Dated: County of Wyoming  
February 13th, 2020

3  
Julio Nunez #00-A-2345  
Attica Correctional Facility  
639 Exchange Street  
Attica, New York 11701

cc: file  
encl: Affidavit of Service



AFFIDAVIT OF SERVICE

Case No. 19-CV-0072

STATE OF NEW YORK )  
COUNTY OF WYOMING )

Julio Nava, being duly sworn, deposes and says:  
that on this 13th day of February, 2020, I have served true and exact  
copies of the foregoing documents: Motion for objections to Decision  
& Order dated: January 30th, 2020; Six pages in total

upon the below listed person(s), to wit:

John F. Moore  
Asst. Atty. Gen.  
State of New York  
The Capitol  
Albany, NY 12224

by placing same in postage prepaid envelopes and depositing in the U.S. Mail at Attica  
Correctional Facility.

DATED: February 13th, 2020

Yours etc.

3  
Attica Correctional Facility  
P.O. Box 149  
Attica, New York 14011

SWORN TO THIS 13  
DAY OF February, 2020  
[Signature]

NOTARY PUBLIC

BRIAN HEMBROOK  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01HE6342568  
Qualified In Erie County  
My Commission Expires 05-31-2020

ATTICA CORRECTIONAL FACILITY  
BOX 149  
ATTICA, NEW YORK 14011-0149

NAME: Julio Nova DIN: H00-A-2345



CORRECTIONAL FACILITY

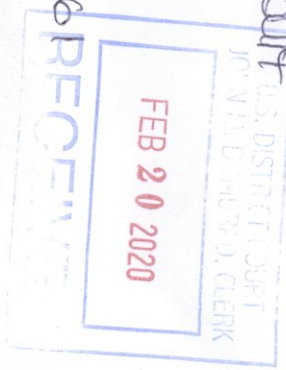


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